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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/610,197	07/01/2000	John B. Ferber	2580-001	6838

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EXAMINER

LAFORGIA, CHRISTIAN A

ART UNIT	PAPER NUMBER
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2155

DATE MAILED: 06/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/610,197

Applicant(s)

FERBER ET AL.

Examiner

Christian La Forgia

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 1 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 July 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>8</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The amendment filed on 19 July 2001 is noted and made of record.
2. Claims 1 through 15 are presented for examination.
3. Claim 1 is cancelled as per Applicant's request.

Drawings

4. The informal drawings filed in this application are acceptable for examination purposes.
When the application is allowed, applicant will be required to submit new formal drawings.

5. The Patent and Trademark Office no longer makes drawing changes. See 1017 O.G. 4.

It is applicant's responsibility to ensure that the drawings are corrected. Corrections must be made in accordance with the instructions below.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. **Correction of Informalities -- 37 CFR 1.85**

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the "Notice of Allowability." Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136 for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

2. **Corrections other than Informalities Noted by Draftsperson on form PTO-948.**

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made, other than correction of informalities, unless the examiner has approved the proposed changes.

Timing of Corrections

Applicant is required to submit acceptable corrected drawings within the time period set in the Office action. See 37 CFR 1.185(a). Failure to take corrective action within the set (or extended) period will result in **ABANDONMENT** of the application.

Specification

6. The use of the trademark Flash, Java, Javascript, PERL, and Python has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

7. Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2 through 8, 12, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 6,009,410 to LeMole et al., (hereinafter LeMole) in view of United States Patent No. 6,560,578 to Eldering, (hereinafter Eldring).

10. As per claim 2, LeMole teaches a method for optimizing selection of advertisements for transmission to a customer, comprising:

11. creating at least one customer profile for a possible recipient of advertisement data, the customer profile reflecting the recipient's interest in predetermined characteristics of the advertisement data (Figures 2, 3 [block 301], 4 [block 401]; column 1, line 56 to column 2, line 17; column 4, lines 36-58);

12. creating an ad-attribute profile for each of the advertisements, the ad-attribute profile comprising a measure of uncertainty regarding the recipient's interest in each of the advertisements, where in the measure of uncertainty inversely, affects the ad-attribute profile (Figures 2, 3 [blocks 306, 307, 308, 309], 4 [blocks 406, 407, 409]; column 2, lines 17-46; column 4, lines 36-58; column 6, line 49 to column 7, line 5; column 7, lines 19-35).13.

LeMole does not teach computing a value that the recipient will select each of the advertisements; and,

14. selecting the advertisement corresponding to the highest value.

15. Eldering teaches computing a value that the recipient will select each of the advertisements (Figure 2d [block 241], 5 [blocks 500, 514, 519, 530, 548, 556, 562], 8b [blocks 910, 920], 10 [block 1500]; column 2, line 62 to column 3, line 3; column 3, lines 29-38; column 8, lines 21-31); and,

16. selecting the advertisement corresponding to the highest value (column 3, lines 42-49; column 4, lines 1-15; column 8, lines 32-53; column 8, line 54 to column 9, line 3; column 10, lines 46-62). It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the heuristic evaluation of Eldering with the system of LeMole. One would be motivated to include this feature in the system of LeMole because it would provide more accurate advertisements to targeted demographic areas. LeMole teaches

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towards this in his example at the bottom of column 4, where taking a demographic analysis of a registered user and providing a targeted advertisement in regards to a vacation. Such analysis is beneficial due to the fact that a married couple with two children has different interests than a single person without any children.

17. Regarding claim 3, LeMole does not teach the step of serving the highest value advertisement to the recipient.

18. Eldering teaches the step of serving the highest value advertisement to the recipient (Figures 2a, 2b, 2c, 2d [block 239], 3a, 3b, 8a [block 810], and 8b [blocks 900, 910]; column 11, line 50 to column 12, line 14). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include serving the advertisement with highest value to the recipient into the system of LeMole. One would be motivated to add such a feature to this system because by calculating the highest value of an appropriate advertisement and delivering that to an end user provides a better-predicted response from said user. For instance, a family of four would be more interested in vacationing in Disney World than say, a singles cruise in the Caribbean.

19. Regarding claim 4, LeMole does not teach wherein the ad-attribute profile further comprises a measure of a degree of content of the predetermined characteristics in the advertisements.

20. Eldering teaches wherein the ad-attribute profile further comprises a measure of a degree of content of the predetermined characteristics in the advertisements (Figures 2a, 2b, 2c, 2d

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[block 239], 3a, 3b, 8a [block 810], and 8b [blocks 900, 910]; column 9, lines 25-37; column 11, line 50 to column 12, line 12). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a measure of a degree of content. One would be motivated to provide a measure of a degree of content because it would give a demographic background of a particular item that would aid in supplying other advertisements to certain demographic backgrounds.

21. Regarding claim 5, LeMole teaches wherein the at least one customer profile comprises one attribute for each of the predetermined characteristics (Figures 2, 3 [blocks 301, 302], 4 [blocks 401, 402]; column 4, lines 36-58).

22. Regarding claim 6, LeMole does not teach wherein the uncertainty is inversely proportional to a number of times the advertisement has been served.

23. Eldering teaches wherein the uncertainty is inversely proportional to a number of times the advertisement has been served (Figure 5 [blocks 530, 540, 556, 558], 7; column 10, lines 13-23). It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the heuristic evaluation of the amount of times the advertisement has been served of Eldering with the system of LeMole. One would be motivated to include this feature in the system of LeMole because it would provide more accurate advertisements to targeted demographic areas. LeMole teaches towards this in Figures 3 and 4, blocks 308, 309 and blocks 408, 409, respectively.

24. With regards to claim 7, LeMole does not teach wherein the ad-attribute profile comprises one attribute for each of the predetermined characteristics.

25. Eldering teaches wherein the ad-attribute profile comprises one attribute for each of the predetermined characteristics (Figures 2a, 2b, 2c, 2d [block 239], 3a, 3b, 7, 10; column 7, lines 22-54; column 8, lines 32-54). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include an ad-attribute profile in the system of LeMole. One would be motivated to include this feature in the system of LeMole because it would provide more accurate advertisements to targeted demographic areas. LeMole teaches towards this in Figures 3 and 4, blocks 308, 309 and blocks 408, 409, respectively. One would also be motivated to provide this feature because it serves as a cross-reference point in sending advertisements to certain demographic groups.

26. Concerning claim 8, LeMole does not teach wherein the computing step further comprises the following steps for each advertisement:

- (a) multiplying an attribute of the customer profile by a corresponding attribute of the ad-attribute profile to yield a product;

- (b) accumulating the product; and

- (c) repeating steps (a) and (b) for every attribute of the customer profile.

27. Eldering teaches wherein the computing step further comprises the following steps for each advertisement:

- (a) multiplying an attribute of the customer profile by a corresponding attribute of the ad-attribute profile to yield a product (column 11, line 50 to column 12, line 2);

(b) accumulating the product (column 11, line 50 to column 12, line 2); and

(c) repeating steps (a) and (b) for every attribute of the customer profile (column 11, line 50 to column 12, line 2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include an ad-attribute profile in the system of LeMole. One would be motivated to include this feature in the system of LeMole because it would provide more accurate advertisements to targeted demographic areas. LeMole teaches towards this in Figures 3 and 4, blocks 308, 309 and blocks 408, 409, respectively. One would also be motivated to provide this feature because it serves as a cross-reference point in sending advertisements to certain demographic groups.

28. Regarding claim 12, LeMole does not teach wherein the computing step further comprises computing a value that the recipient will select each of the advertisements, the value being equal to a square root of a number of times the advertisement has been served.

29. Eldering teaches wherein the computing step further comprises computing a value that the recipient will select each of the advertisements, the value being equal to a square root of a number of times the advertisement has been served (Figure 2d [block 241], 8b [block 920]; column 11, lines 43-49; column 12, lines 58-65). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the effectiveness analysis of Eldering with the system of LeMole. One would be motivated to perform such an analysis in order to predict the effectiveness of the advertisement, such as if the ad is meeting, exceeding or falling short of the predicted effectiveness. LeMole teaches towards this Figures 3 and 4, blocks 308, 309 and 408, 409, respectively.

30. Regarding claim 13, LeMole teaches wherein the computing step further comprises computing a value, the value based on a predicted number of visitors to a predetermined number of Web sites (Figures 3 [block 302], 4 [block 402]; column 5, line 22 to column 6, line 19). LeMole teaches that the advertisement selection is based upon the types of web pages users visit, thereby choosing an advertisement with the highest probability of being of interest to the user based upon the context of the web sites that said user visits.

31. Claims 9, 10, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over LeMole in view of Edlering, and further in view of United States Patent No. 6,317,761 to Landsman et al., (hereinafter Landsman).

32. Concerning claim 9, LeMole and Eldering do not teach wherein the computing step further comprises the step of computing a value based on a predicted sequence of Web sites being accessed.

33. Landsman teaches wherein the computing step further comprises the step of computing a value based on a predicted sequence of Web sites being accessed (Figures 1b [blocks 15], 5 [block 545], 6 [block 640], 8 [blocks 820, 825], 9a [blocks 920, 925], 13 [block 545], 14; column 34, line 57 to column 35, line 20; column 35, line 39 to column 36, line 8; column 37, lines 17-52). It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate an ad tracker similar to that of Landsman in the combined system of LeMole and Eldering. One would be motivated to track the predicted sequence of advertisements to prevent the same advertisement from repeating itself several times in a short span of time.

Likewise, one would also be motivated to provide such tracking functions so that competitors advertisements would not play after each other. For instance, this function would provide that a Coca-Cola advertisement would not air immediately before or after a Pepsi advertisement.

34. Concerning claim 10, LeMole and Eldering do not teach wherein a value for an advertisement is lowered if a particular Web site is predicted to be shown in the future.

35. Landsman teaches wherein a value for an advertisement is lowered if a particular Web site is predicted to be shown in the future (Figures 1b [blocks 15], 5 [block 545], 6 [block 640], 8 [blocks 820, 825], 9a [blocks 920, 925], 13 [block 545], 14; column 34, line 57 to column 35, line 20; column 35, line 39 to column 36, line 8; column 37, lines 17-52). It would have been obvious to one of ordinary skill in the art at the time the invention was made to lower the value of an ad that is to be shown in the future using the ad tracker of Landsman in the combined system of LeMole and Eldering. One would be motivated to lower the value of an ad to prevent the same advertisement from repeating itself several times in a short span of time. This would aid in preventing every other ad from being for the same or similar product.

36. Regarding claim 14, LeMole and Eldering do not teach wherein the selecting step comprises:

37. selecting a predetermined number of advertisements corresponding to a highest value;
and,

38. storing an identifier for each advertisement in an ad queue.

39. Landsman teaches wherein the selecting step comprises:

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40. selecting a predetermined number of advertisements corresponding to a highest value (Figures 1b [blocks 15], 5 [block 545], 6 [block 640], 8 [blocks 820, 825], 9a [blocks 920, 925], 13 [block 545], 14; column 34, line 57 to column 35, line 20; column 35, line 39 to column 36, line 8; column 37, lines 17-52); and,

41. storing an identifier for each advertisement in an ad queue (Figures 5 [blocks 25, 520], 6b [block 645], 7 [block 740], 15 [blocks 645, 1550]; column 35, line 50 to column 36, line 49; column 37, lines 17-51). It would have been obvious to one of ordinary skill in the art at the time the invention was made to serve up the advertisements corresponding to the highest value and store only an identifier in the ad queue. One would be motivated to serve up the advertisements with the highest values because they have the highest probability of being acknowledged, thereby creating sales for the various products that are being advertised. One would be motivated to use an identifier because it would save space in memory, in addition to being a quick and easy download without hindering any other downloads or web browsing capabilities.

42. With regards to claim 15, LeMole and Eldering do not teach wherein an advertisement is served to a user from the ad queue.

43. Landsman teaches wherein an advertisement is served to a user from the ad queue (Figures 1b [blocks 15], 5 [block 545], 6 [block 640], 8 [blocks 820, 825], 9a [blocks 920, 925], 13 [block 545], 14; column 35, line 39 to column 36, line 8). It would have been obvious to one of ordinary skill in the art at the time the invention was made to serve up the advertisements from an ad queue. One would be motivated to serve up the advertisements from an ad queue because

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it would save time, preventing the ad server from searching for an appropriate advertisement to display.

44. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over LeMole in view of Eldering as applied to claim 2 above, and further in view of United States Patent No. 6,006,197 to d'Eon et al., (hereinafter d'Eon).

45. Regarding claim 11, LeMole and Eldering do not teach wherein the computing step further comprises:

46. adding a revenue amount associated with each of the advertisements to the value; and

47. subtracting a cost associated with each of the advertisements from the value.

48. d'Eon teaches wherein the computing step further comprises:

49. adding a revenue amount associated with each of the advertisements to the value (column 3, lines 6-17); and

50. subtracting a cost associated with each of the advertisements from the value (column 3, lines 6-17). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the analysis of d'Eon with the combined system of LeMole and Eldering. One would be motivated to add such a feature to the system because it would provide an accurate description as to the effectiveness of the advertisement.

Conclusion

51. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

52. The following patents are cited to further show the state of the art with respect to placing advertisements into web pages, such as:

United States Patent No. 6,477,509 to Hammons et al., which is cited to show a method for Internet marketing.

United States Patent No. 5,848,396 to Gerace, which is cited to show a method for predicting the behavior of a computer user.

United States Patent No. 6,477,575 to Koeppel et al., which is cited to show a method for performing dynamic web advertising.

United States Patent No. 6,470,079 to Benson, which is cited to show a system for real-time advertising.

United States Patent No. 6,353,849 to Linsk, which is cited to show a system for customizing web pages.

United States Patent No. 6,370,578 to Revashetti et al., which is cited to show a method for marketing based on a user's preferences.

United States Patent No. 6,442,529 to Krishan et al., which is cited to show how to target advertise via the Internet.

United States Patent No. 6,285,985 to Horstmann, which is cited to show a method of advertising over the Internet.

United States Patent No. 6,453,347 to Revashetti et al., which is cited to show a method for marketing based on a user's preferences.

United States Patent No. 6,085,229 to Newman et al., which is cited to show a method for providing personalized advertisements.

53. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christian La Forgia whose telephone number is (703) 305-7704.


The examiner can normally be reached on Monday thru Thursday 7-5.

54. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on (703) 305-9648. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7240 for regular communications and (703) 746-7239 for After Final communications.

55. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Christian LaForgia
Patent Examiner
Art Unit 2155

clf
June 13, 2003


HOSAIN T. ALAM
PRIMARY EXAMINER